

AMENDED IN SENATE JUNE 11, 2013

AMENDED IN ASSEMBLY APRIL 8, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 229

Introduced by Assembly Member John A. Pérez
(Coauthors: Assembly Members Atkins, Bonilla, Bonta, Cooley,
Dickinson, Gordon, and Torres)
(Coauthor: Senator DeSaulnier)

February 4, 2013

An act to add Chapter 2.6 (commencing with Section 53369) to Part 1 of Division 2 of Title 5 of the Government Code, and to amend Section 33459 of the Health and Safety Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 229, as amended, John A. Pérez. Local government: infrastructure and revitalization financing districts.

Existing law authorizes the creation of infrastructure financing districts, as defined, for the sole purpose of financing public facilities, subject to adoption of a resolution by the legislative body and affected taxing entities proposed to be subject to division of taxes and $\frac{2}{3}$ voter approval. Existing law authorizes the legislative body to, by majority vote, initiate proceedings to issue bonds for the financing of district projects by adopting a resolution, subject to specified procedures and $\frac{2}{3}$ voter approval. Existing law requires an infrastructure financing plan to include the date on which an infrastructure financing district will cease to exist, which may not be more than 30 years from the date on which the ordinance forming the district is adopted. Existing law prohibits a district from including any portion of a redevelopment project

area. Existing law, the Polanco Redevelopment Act, authorizes a redevelopment agency to take any action that the agency determines is necessary and consistent with state and federal laws to remedy or remove a release of hazardous substances on, under, or from property within a project area, whether the agency owns that property or not, subject to specified conditions. Existing law also declares the intent of the Legislature that the areas of the district created be substantially undeveloped, and that the establishment of a district should not ordinarily lead to the removal of dwelling units.

This bill would authorize the creation of an infrastructure and revitalization financing district, as defined, and the issuance of debt with $\frac{2}{3}$ voter approval. The bill would authorize the creation of a district for up to 40 years and the issuance of debt with a final maturity date of up to 30 years, as specified. The bill would authorize a district to finance projects in redevelopment project areas and former redevelopment project areas and former military bases. The bill would authorize the legislative body of a city to dedicate any portion of its funds received from the Redevelopment Property Tax Trust Fund to the district, if specified criteria are met. The bill would authorize a city to form a district to finance a project or projects on a former military base, if specified conditions are met.

The bill would authorize a district to fund various projects, including, among others, watershed land used for the collection and treatment of water for urban uses, flood management, levees, bypasses, open space, habitat restoration, brownfields restoration, environmental mitigation, purchase of land and property for development purposes, including commercial property, hazardous cleanup, former military bases, and specified transportation purposes. The bill would authorize a district to implement hazardous cleanup pursuant to the Polanco Redevelopment Act, as specified. The bill would impose a specified reporting requirement on districts. The bill would state that it is the intent of the Legislature that the establishment of a district should not ordinarily lead to the removal of existing functional, habitable, and safe dwelling units, as specified. The bill would define the term “public works” for purposes of these provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 2.6 (commencing with Section 53369)
2 is added to Part 1 of Division 2 of Title 5 of the Government Code,
3 to read:

4
5 CHAPTER 2.6. INFRASTRUCTURE AND REVITALIZATION
6 FINANCING DISTRICTS

7
8 Article 1. General Provisions
9

10 53369. It is the intent of the Legislature in enacting this chapter
11 to establish a long-term permanent program that provides local
12 governments with tools and resources for specified purposes,
13 including, but not limited to, public infrastructure, affordable
14 housing, economic development and job creation, and
15 environmental protection and remediation, in a manner that
16 encourages local cooperation and includes appropriate protections
17 for state and local taxpayers.

18 53369.1. Unless the context otherwise requires, the definitions
19 contained in this article shall govern the construction of this
20 chapter.

21 (a) “Affected taxing entity” means any governmental taxing
22 agency that levied or had levied on its behalf a property tax on all
23 or a portion of the property located in the proposed district in the
24 fiscal year prior to the designation of the district, but not including
25 any county office of education, school district, or community
26 college district.

27 (b) “City” means a city, county, city and county, or joint powers
28 authority, where that entity is acting as the military base reuse
29 authority established pursuant to Title 7.86 (commencing with
30 Section 67800).

31 (c) “Debt” means any binding obligation to repay a sum of
32 money, including obligations in the form of bonds, certificates of
33 participation, long-term leases, loans from government agencies,
34 or loans from banks, other financial institutions, private businesses,
35 or individuals.

36 (d) “Designated official” means the city engineer or other
37 appropriate official designated pursuant to Section 53369.13.

1 (e) (1) “District” means an infrastructure and revitalization
2 financing district.

3 (2) An infrastructure and revitalization financing district is a
4 “district” within the meaning of Section 1 of Article XIII A of the
5 California Constitution.

6 (f) “Infrastructure and revitalization financing district” means
7 a legally constituted governmental entity established pursuant to
8 this chapter for the sole purpose of financing facilities authorized
9 by this chapter.

10 (g) “Landowner” or “owner of land” means any person shown
11 as the owner of land on the last equalized assessment roll or
12 otherwise known to be the owner of the land by the legislative
13 body. The legislative body does not have any obligation to obtain
14 other information as to the ownership of land, and its determination
15 of ownership shall be final and conclusive for the purposes of this
16 chapter. A public agency is not a landowner or owner of land for
17 purposes of this chapter, unless the public agency owns all of the
18 land to be included within the proposed district.

19 (h) “Legislative body” means the city council, board of
20 supervisors, or joint powers authority that is acting as the military
21 base reuse authority established pursuant to Title 7.86
22 (commencing with Section 67800).

23 (i) “Project area” means a defined area within a district in which
24 the activities of the district share a common purpose or goal and
25 an overall financing plan.

26 (j) “Public works” means public facilities or any other facilities
27 described in Section 53369.3 that are to be financed in whole or
28 in part by the district.

29 (k) “Net available revenue” means periodic distributions to the
30 city from the Redevelopment Property Tax Trust Fund, created
31 pursuant to Section 34170.5 of the Health and Safety Code, that
32 are available to the city after all preexisting legal commitments
33 and statutory obligations funded from that revenue are made
34 pursuant to Part 1.85 (commencing with Section 34170) of Division
35 24 of the Health and Safety Code. Net available revenue shall only
36 include revenue remaining after all current distributions, including,
37 but not limited to, payment of enforceable obligations, all
38 distributions to other taxing entities, and applicable administrative
39 fees, have been made.

1 53369.2. (a) The revenues available pursuant to Article 3
2 (commencing with Section 53369.30) may be used directly for
3 work allowed pursuant to Section 53369.3, may be accumulated
4 for a period not to exceed five years to provide a fund for that
5 work, may be pledged to pay the principal of, and interest on,
6 bonds issued pursuant to Article 4 (commencing with Section
7 53369.40), or may be pledged to pay the principal of, and interest
8 on, bonds issued pursuant to the Improvement Bond Act of 1915
9 (Division 10 (commencing with Section 8500) of the Streets and
10 Highways Code) or the Mello-Roos Community Facilities Act of
11 1982 (Chapter 2.5 (commencing with Section 53311)), the proceeds
12 of which have been or will be used entirely for allowable purposes
13 of the district. The revenue of the district may also be advanced
14 for allowable purposes of the district to an Integrated Financing
15 District established pursuant to Chapter 1.5 (commencing with
16 Section 53175), in which case the district may be party to a
17 reimbursement agreement established pursuant to that chapter.
18 The revenues of the district may also be committed to paying for
19 any completed facility acquired pursuant to Section 53369.3 over
20 a period of time, including the payment of a rate of interest not to
21 exceed the bond buyer index rate on the day that the agreement to
22 repay is entered into by the city.

23 (b) The legislative body may enter into an agreement with any
24 affected taxing entity providing for the construction of, or
25 assistance in, financing facilities.

26 53369.3. (a) A district may finance (1) the purchase,
27 construction, expansion, improvement, seismic retrofit, or
28 rehabilitation of any real or other tangible property with an
29 estimated useful life of 15 years or longer which satisfies the
30 requirements of subdivision (b), (2) planning and design work that
31 is directly related to the purchase, construction, expansion,
32 improvement, rehabilitation, or seismic retrofit of that property,
33 and (3) the costs described in Sections 53369.6 and 53369.31. The
34 facilities need not be physically located within the boundaries of
35 the district. A district may not finance routine maintenance, repair
36 work, or the costs of ongoing operation or providing services of
37 any kind.

38 (b) The district shall finance only facilities or projects of
39 communitywide significance, including, but not limited to, any of
40 the following:

- 1 (1) Highways, interchanges, ramps and bridges, arterial streets,
2 parking facilities, and transit facilities.
- 3 (2) Sewage treatment and water reclamation plants and
4 interceptor pipes.
- 5 (3) Facilities and watershed lands used for the collection and
6 treatment of water for urban uses.
- 7 (4) Flood management, including levees, bypasses, dams,
8 retention basins, and drainage channels.
- 9 (5) Child care facilities.
- 10 (6) Libraries.
- 11 (7) Parks, recreational facilities, open space, and habitat
12 restoration.
- 13 (8) Facilities for the transfer and disposal of solid waste,
14 including transfer stations and vehicles.
- 15 (9) Brownfields restoration and other environmental mitigation.
- 16 (10) Purchase of land and property for development purposes
17 and related site improvements.
- 18 (11) Acquisition, construction, or repair of housing for rental
19 or purchase, including multipurpose facilities.
- 20 (12) Acquisition, construction, or repair of commercial or
21 industrial structures for private use.
- 22 (13) The repayment of the transfer of funds to a military base
23 reuse authority pursuant to Section 67851.
- 24 (c) Any district that constructs dwelling units shall set aside not
25 less than 20 percent of those units to increase and improve the
26 community's supply of low- and moderate-income housing
27 available at an affordable housing cost, as defined by Section
28 50052.5 of the Health and Safety Code, or at an affordable rent,
29 as defined by Section 50053 of the Health and Safety Code, to
30 persons and families of low and moderate income, as defined in
31 Section 50093 of the Health and Safety Code.
- 32 (d) A district may utilize any powers under the Polanco
33 Redevelopment Act (Article 12.5 (commencing with Section
34 33459) of Chapter 4 of Part 1 of Division 24 of the Health and
35 Safety Code), and finance any action necessary to implement that
36 act.
- 37 (e) A district may finance any project that implements a
38 sustainable communities strategy prepared pursuant to Section
39 65080.

1 53369.4. (a) A city may form a district to finance a project or
2 projects on a former military base pursuant to the requirements set
3 forth in this chapter.

4 (b) A district formed under this section may finance a project
5 pursuant to this section or Section 53369.3 only if the project is
6 consistent with the authority reuse plan and is approved by the
7 military base reuse authority, if applicable.

8 53369.5. (a) A district may finance only the facilities or
9 services authorized in this chapter. The additional facilities or
10 services may not supplant facilities or services already available
11 within that territory when the district was created, except if those
12 facilities or services are essentially nonfunctional, obsolete,
13 hazardous, or in need of upgrading or rehabilitation. The additional
14 facilities or services may supplement those facilities and services
15 as needed to serve new developments.

16 (b) A district may include areas that are not contiguous. A
17 district may be divided into project areas, each of which may be
18 subject to distinct limitations established under this chapter. The
19 legislative body may, at any time, add territory to a district or
20 amend the infrastructure financing plan for the district by
21 conducting the same procedures for the formation of a district or
22 approval of bonds, if applicable, as provided pursuant to this
23 chapter.

24 (c) Any district may finance any project or portion of a project
25 that is located in, or overlaps with, any redevelopment project area
26 or former redevelopment project area or former military base.

27 (d) Notwithstanding subdivision (c), any debt or obligation of
28 a district shall be subordinate to an enforceable obligation of a
29 former redevelopment agency, as defined in Section 34171 of the
30 Health and Safety Code.

31 (e) The legislative body of the city forming the district may
32 choose to dedicate any portion of its net available revenue to the
33 district through the financing plan described in Section 53369.14.

34 53369.6. It is the intent of the Legislature that the establishment
35 of a district should not ordinarily lead to the removal of existing
36 functional, habitable, and safe dwelling units. If, however, any
37 dwelling units are proposed to be removed or destroyed in the
38 course of private development or facilities construction within the
39 area of the district, the legislative body shall do all of the following:

1 (a) Within four years of the removal or destruction, cause or
2 require the construction or rehabilitation, for rental or sale to
3 persons or families of low or moderate income, of an equal number
4 of replacement dwelling units at affordable housing cost, as defined
5 in Section 50052.5 of the Health and Safety Code, or affordable
6 rent, as defined in Section 50053 of the Health and Safety Code,
7 within the territory of the district if the dwelling units removed
8 were inhabited by persons or families of low or moderate income,
9 as defined in Section 50093 of the Health and Safety Code.

10 (b) Within four years of the removal or destruction, cause or
11 require the construction or rehabilitation, for rental or sale to
12 persons of low or moderate income, a number of dwelling units
13 which is at least one unit but not less than 20 percent of the total
14 dwelling units removed at affordable housing cost, as defined in
15 Section 50052.5 of the Health and Safety Code, or affordable rent,
16 as defined in Section 50053 of the Health and Safety Code, within
17 the territory of the district if the dwelling units removed or
18 destroyed were not inhabited by persons of low or moderate
19 income, as defined in Section 50093 of the Health and Safety Code.

20 (c) In the case of dwelling units located on a former military
21 base that are destroyed or removed in connection with a base reuse
22 plan, replacement dwelling units required by subdivision (a) or
23 (b) may be located anywhere within the territory of the former
24 military base consistent with the base reuse plan, local general
25 plan, and infrastructure financing plan, as applicable.

26 (d) Provide relocation assistance and make all the payments
27 required by Chapter 16 (commencing with Section 7260) of
28 Division 7 of Title 1, to persons displaced by any public or private
29 development occurring within the territory of the district. This
30 displacement shall be deemed to be the result of public action.

31 (e) Ensure that removal or destruction of any dwelling units
32 occupied by persons or families of low or moderate income not
33 take place unless and until there are suitable housing units, at
34 comparable cost to the units from which the persons or families
35 were displaced, available and ready for occupancy by the residents
36 of the units at the time of their displacement. The housing units
37 shall be suitable to the needs of these displaced persons or families
38 and shall be decent, safe, sanitary, and otherwise standard
39 dwellings.

1 53369.7. Any action or proceeding to attack, review, set aside,
2 void, or annul the creation of a district, adoption of an infrastructure
3 financing plan, including a division of taxes thereunder, or an
4 election pursuant to this chapter shall be commenced within 30
5 days after the enactment of the ordinance creating the district
6 pursuant to Section 53369.23. Consistent with the time limitations
7 of this section, such an action or proceeding with respect to a
8 division of taxes under this chapter may be brought pursuant to
9 Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of
10 the Code of Civil Procedure, except that Section 869 of the Code
11 of Civil Procedure shall not apply.

12 53369.8. An action to determine the validity of the issuance
13 of bonds pursuant to this chapter may be brought pursuant to
14 Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of
15 the Code of Civil Procedure. However, notwithstanding the time
16 limits specified in Section 860 of the Code of Civil Procedure, the
17 action shall be commenced within 30 days after adoption of the
18 resolution pursuant to Section 53369.44 providing for issuance of
19 the bonds if the action is brought by an interested person pursuant
20 to Section 863 of the Code of Civil Procedure. Any appeal from
21 a judgment in that action or proceeding shall be commenced within
22 30 days after entry of judgment.

23
24 Article 2. Preparation and Adoption of Infrastructure
25 Revitalization Financing District Plans
26

27 53369.10. A legislative body of a city may designate one or
28 more proposed infrastructure revitalization financing districts
29 pursuant to this chapter. Proceedings for the establishment of a
30 district shall be instituted by the adoption of a resolution of
31 intention to establish the proposed district and shall do all of the
32 following:

33 (a) State that an infrastructure revitalization financing district
34 is proposed to be established under the terms of this chapter and
35 describe the boundaries of the proposed district and any project
36 area proposed within the district, which may be accomplished by
37 reference to a map on file in the office of the clerk of the city.

38 (b) State the type of facilities proposed to be financed by the
39 district. The district may only finance facilities authorized by
40 Section 53369.3.

1 (c) State that incremental property tax revenue from the city
2 and some or all affected taxing entities within the district may be
3 used to finance these facilities.

4 (d) State that net available revenue from the city may be used
5 to finance these facilities and state the maximum portion of the
6 net available revenue to be committed to the district for each year
7 during which the district will receive these revenues.

8 (e) Fix a time and place for a public hearing on the proposal.

9 53369.11. The legislative body shall cause a copy of the
10 resolution of intention to create the district to be mailed to each
11 owner of land within the district.

12 53369.12. The legislative body shall cause a copy of the
13 resolution to be mailed to each affected taxing entity.

14 53369.13. After adopting the resolution pursuant to Section
15 53369.10, the legislative body shall designate and direct the city
16 engineer or other appropriate official to prepare an infrastructure
17 plan pursuant to Section 53369.14.

18 53369.14. After receipt of a copy of the resolution of intention
19 to establish a district, the official designated pursuant to Section
20 53369.13 shall prepare a proposed infrastructure financing plan.
21 The infrastructure financing plan shall be consistent with the
22 general plan of the city within which the district is located and
23 shall include all of the following:

24 (a) A map and legal description of the proposed district, which
25 may include all or a portion of the district designated by the
26 legislative body in its resolution of intention.

27 (b) A description of the facilities required to serve the
28 development proposed in the area of the district including those
29 to be provided by the private sector, those to be provided by
30 governmental entities without assistance under this chapter, those
31 improvements and facilities to be financed with assistance from
32 the proposed district, and those to be provided jointly. The
33 description shall include the proposed location, timing, and costs
34 of the improvements and facilities.

35 (c) A finding that the facilities are of communitywide
36 significance.

37 (d) A financing section, which shall contain all of the following
38 information:

39 (1) A specification of the maximum portion of the incremental
40 tax revenue of the city and of each affected taxing entity proposed

1 to be committed to the district for each year during which the
2 district will receive incremental tax revenue. The portion need not
3 be the same for all affected taxing entities. The portion may change
4 over time.

5 (2) A projection of the amount of tax revenues expected to be
6 received by the district in each year during which the district will
7 receive tax revenues, including an estimate of the amount of tax
8 revenues attributable to each affected taxing entity proposed to be
9 committed to the district for each year. If applicable, the plan shall
10 also include a specification of the maximum portion of the net
11 available revenue of the city proposed to be committed to the
12 district for each year during which the district will receive revenue.
13 The portion may vary over time.

14 (3) A plan for financing the facilities to be assisted by the
15 district, including a detailed description of any intention to incur
16 debt.

17 (4) A limit on the total number of dollars of taxes that may be
18 allocated to the district pursuant to the plan.

19 (5) A date on which the district shall cease to exist, by which
20 time all tax allocation, including any allocation of net available
21 revenue, to the district will end. The date shall not be more than
22 40 years from the date on which the ordinance forming the district
23 is adopted pursuant to Section 53369.23, or a later date, if specified
24 by the ordinance, on which the allocation of tax increment will
25 begin. The district may issue debt with a final maturity date of up
26 to 30 years from the date of issuance of each debt issue, subject
27 to the time limit on tax allocation to the district.

28 (6) An analysis of the costs to the city of providing facilities
29 and services to the area of the district while the area is being
30 developed and after the area is developed. The plan shall also
31 include an analysis of the tax, fee, charge, and other revenues
32 expected to be received by the city as a result of expected
33 development in the area of the district.

34 (7) An analysis of the projected fiscal impact of the district and
35 the associated development upon each affected taxing entity that
36 is proposed to participate in financing the district.

37 (8) A plan for financing any potential costs that may be incurred
38 by reimbursing a developer of a project that is both located entirely
39 within the boundaries of that district and qualifies for the Transit

1 Priority Project Program, pursuant to Section 65470, including
2 any permit and affordable housing expenses related to the project.

3 (e) If any dwelling units occupied by persons or families of low
4 or moderate income are proposed to be removed or destroyed in
5 the course of private development or facilities construction within
6 the area of the district, a plan providing for replacement of those
7 units and relocation of those persons or families consistent with
8 the requirements of Section 53369.6.

9 53369.15. The infrastructure financing plan shall be sent to
10 each owner of land within the proposed district and to each affected
11 taxing entity together with any report required by the California
12 Environmental Quality Act (Division 13 (commencing with Section
13 21000) of the Public Resources Code) that pertains to the proposed
14 facilities or the proposed development project for which the
15 facilities are needed, and shall be made available for public
16 inspection. The report shall also be sent to the planning commission
17 and the legislative body.

18 53369.16. The designated official shall consult with each
19 affected taxing entity, and, at the request of any affected taxing
20 entity, shall meet with representatives of an affected taxing entity.
21 Any affected taxing entity may suggest revisions to the plan.

22 53369.17. The legislative body shall conduct a public hearing
23 prior to adopting the proposed infrastructure financing plan. The
24 public hearing shall be called no sooner than 60 days after the plan
25 has been sent to each affected taxing entity. In addition to the
26 notice given to landowners and affected taxing entities pursuant
27 to Sections 53369.11 and 53369.12, notice of the public hearing
28 shall be given by publication not less than once a week for four
29 successive weeks in a newspaper of general circulation published
30 in the city in which the proposed district is located. The notice
31 shall state that the district will be used to finance public works,
32 briefly describe the public works, briefly describe the proposed
33 financial arrangements, including the proposed commitment of
34 incremental tax revenue, describe the boundaries of the proposed
35 district and state the day, hour, and place when and where any
36 persons having any objections to the proposed infrastructure
37 financing plan, or the regularity of any of the prior proceedings,
38 may appear before the legislative body and object to the adoption
39 of the proposed plan by the legislative body.

1 53369.18. At the hour set in the required notices, the legislative
2 body shall proceed to hear and pass upon all written and oral
3 objections. The hearing may be continued from time to time. The
4 legislative body shall consider the recommendations, if any, of
5 affected taxing entities, and all evidence and testimony for and
6 against the adoption of the plan. The legislative body may modify
7 the plan by eliminating or reducing the size and cost of proposed
8 public works, by reducing the amount of proposed debt, or by
9 reducing the portion, amount, or duration of incremental tax
10 revenues to be committed to the district.

11 53369.19. (a) The legislative body shall not enact a resolution
12 proposing formation of a district and providing for the division of
13 taxes of any affected taxing entity pursuant to Article 3
14 (commencing with Section 53369.30), unless a resolution
15 approving the plan has been adopted by the governing body of
16 each affected taxing entity which is proposed to be subject to
17 division of taxes pursuant to Article 3 (commencing with Section
18 53369.30) has been filed with the legislative body at or prior to
19 the time of the hearing.

20 (b) In the case of an affected taxing entity that is a special district
21 that provides fire protection services and where the county board
22 of supervisors is the governing authority or has appointed itself as
23 the governing board of the district, the plan shall be adopted by a
24 separate resolution approved by the district's governing authority
25 or governing board.

26 (c) This section shall not be construed to prevent the legislative
27 body from amending its infrastructure financing plan and adopting
28 a resolution proposing formation of the infrastructure revitalization
29 financing district without allocation of the tax revenues of any
30 affected taxing entity which has not approved the infrastructure
31 financing plan by resolution of the governing body of the affected
32 taxing entity.

33 53369.20. (a) At the conclusion of the hearing, the legislative
34 body may adopt a resolution proposing adoption of the
35 infrastructure financing plan, as modified, and formation of the
36 infrastructure revitalization financing district in a manner consistent
37 with Section 53369.19, or it may abandon the proceedings. If the
38 legislative body adopts a resolution proposing formation of the
39 district, it shall then submit the proposal to create the district to
40 the qualified electors of the proposed district in the next general

1 election or in a special election to be held, notwithstanding any
2 other requirement, including any requirement that elections be
3 held on specified dates, contained in the Elections Code, at least
4 90 days, but not more than 180 days, following the adoption of
5 the resolution of formation. The legislative body shall provide the
6 resolution of formation, a certified map of sufficient scale and
7 clarity to show the boundaries of the district, and a sufficient
8 description to allow the election official to determine the
9 boundaries of the district to the official conducting the election
10 within three business days after the adoption of the resolution of
11 formation. The assessor's parcel numbers for the land within the
12 district shall be included if it is a landowner election or the district
13 does not conform to an existing district's boundaries and if
14 requested by the official conducting the election. If the election is
15 to be held less than 125 days following the adoption of the
16 resolution of formation, the concurrence of the election official
17 conducting the election shall be required. However, any time limit
18 specified by this section or requirement pertaining to the conduct
19 of the election may be waived with the unanimous consent of the
20 qualified electors of the proposed district and the concurrence of
21 the election official conducting the election.

22 (b) If at least 12 persons have been registered to vote within the
23 territory of the proposed district for each of the 90 days preceding
24 the close of the hearing, the vote shall be by the registered voters
25 of the proposed district, who need not necessarily be the same
26 persons, with each voter having one vote. Otherwise, the vote shall
27 be by the landowners of the proposed district and each landowner
28 who is the owner of record at the close of the protest hearing, or
29 the authorized representative thereof, shall have one vote for each
30 acre or portion of an acre of land that he or she owns within the
31 proposed district. The number of votes to be voted by a particular
32 landowner shall be specified on the ballot provided to that
33 landowner.

34 (c) Ballots for the special election authorized by subdivision (a)
35 may be distributed to qualified electors by mail with return postage
36 prepaid or by personal service by the election official. The official
37 conducting the election may certify the proper mailing of ballots
38 by an affidavit, which shall be exclusive proof of mailing in the
39 absence of fraud. The voted ballots shall be returned to the election
40 ~~officer~~ *official* conducting the election not later than the hour

1 specified in the resolution calling the election. However, if all the
2 qualified voters have voted, the election shall be closed.

3 53369.21. (a) Except as otherwise provided in this chapter,
4 laws regulating elections of the local agency that calls an election
5 pursuant to this chapter, insofar as they may be applicable, shall
6 govern all elections conducted pursuant to this chapter. Except as
7 provided in subdivision (b), there shall be prepared and included
8 in the ballot material provided to each voter, an impartial analysis
9 pursuant to Section 9160 or 9280 of the Elections Code, arguments
10 and rebuttals, if any, pursuant to Sections 9162 to 9167, inclusive,
11 and 9190 of the Elections Code or pursuant to Sections 9281 to
12 9287, inclusive, and 9295 of the Elections Code.

13 (b) If the vote is to be by the landowners of the proposed district,
14 analysis and arguments may be waived with the unanimous consent
15 of all the landowners and shall be so stated in the order for the
16 election.

17 53369.22. (a) If the election is to be conducted by mail ballot,
18 the election official conducting the election shall provide ballots
19 and election materials pursuant to subdivision (d) of Section 53326
20 and Section 53327, together with all supplies and instructions
21 necessary for the use and return of the ballot.

22 (b) The identification envelope for return of mail ballots used
23 in landowner elections shall contain the following:

24 (1) The name of the landowner.

25 (2) The address of the landowner.

26 (3) A declaration, under penalty of perjury, stating that the voter
27 is the owner of record or the authorized representative of the
28 landowner entitled to vote and is the person whose name appears
29 on the identification envelope.

30 (4) The printed name and signature of the voter.

31 (5) The address of the voter.

32 (6) The date of signing and place of execution of the declaration
33 pursuant to paragraph (3).

34 (7) A notice that the envelope contains an official ballot and is
35 to be opened only by the canvassing board.

36 53369.23. After the canvass of returns of any election pursuant
37 to Section 53369.20, the legislative body may, by ordinance, adopt
38 the infrastructure financing plan and create the district with full
39 force and effect of law, if two-thirds of the votes upon the question
40 of creating the district are in favor of creating the district.

1 53369.24. After the canvass of returns of any election
2 conducted pursuant to Section 53369.20, the legislative body shall
3 take no further action with respect to the proposed infrastructure
4 revitalization financing district for one year from the date of the
5 election if the question of creating the district fails to receive
6 approval of two-thirds of the votes cast upon the question.

7 53369.25. The legislative body may submit a proposition to
8 establish or change the appropriations limit, as defined by
9 subdivision (h) of Section 8 of Article XIII B of the California
10 Constitution, of a district to the qualified electors of a proposed
11 or established district. The proposition establishing or changing
12 the appropriations limit shall become effective if approved by the
13 qualified electors voting on the proposition and shall be adjusted
14 for changes in the cost of living and changes in populations, as
15 defined by subdivisions (b) and (c) of Section 7901, except that
16 the change in population may be estimated by the legislative body
17 in the absence of an estimate by the Department of Finance, and
18 in accordance with Section 1 of Article XIII B of the California
19 Constitution. For purposes of adjusting for changes in population,
20 the population of the district shall be deemed to be at least one
21 person during each calendar year. Any election held pursuant to
22 this section may be combined with any election held pursuant to
23 Section 53369.20 in any convenient manner.

24 53369.26. No later than June 30 of each year after the adoption
25 of an infrastructure financing plan, the legislative body shall post
26 an annual report in an easily identifiable and accessible location
27 on the legislative body's Internet Web site. The annual report shall
28 contain all of the following:

- 29 (a) A summary of the district's expenditures.
- 30 (b) A description of the progress made toward the district's
31 adopted goals.
- 32 (c) An assessment of the status regarding completion of the
33 district's projects.

34 Article 3. Division of Taxes

35
36
37 53369.30. Any infrastructure financing plan may contain a
38 provision that taxes, if any, levied upon taxable property in the
39 area included within the infrastructure revitalization financing
40 district each year by or for the benefit of the State of California,

or any affected taxing entity after the effective date of the ordinance adopted pursuant to Section 53369.23 to create the district, shall be divided as follows:

(a) That portion of the taxes which would be produced by the rate upon which the tax is levied each year by or for each of the affected taxing entities upon the total sum of the assessed value of the taxable property in the district as shown upon the assessment roll used in connection with the taxation of the property by the affected taxing entity, last equalized prior to the effective date of the ordinance adopted pursuant to Section 53369.23 to create the district, shall be allocated to, and when collected shall be paid to, the respective affected taxing entities as taxes by or for the affected taxing entities on all other property are paid.

(b) That portion of the levied taxes each year specified in the adopted infrastructure financing plan for the city and each affected taxing entity which has agreed to participate pursuant to Section 53369.19 in excess of the amount specified in subdivision (a) shall be allocated to, and when collected shall be paid into a special fund of, the district for all lawful purposes of the district. Unless and until the total assessed valuation of the taxable property in a district exceeds the total assessed value of the taxable property in the district as shown by the last equalized assessment roll referred to in subdivision (a), all of the taxes levied and collected upon the taxable property in the district shall be paid to the respective affected taxing entities. When the district ceases to exist pursuant to the adopted infrastructure financing plan, all moneys thereafter received from taxes upon the taxable property in the district shall be paid to the respective affected taxing entities as taxes on all other property are paid.

53369.31. All costs incurred by a county in connection with the division of taxes pursuant to Section 53369.30 for a district shall be paid by that district.

Article 4. Tax Increment Bonds

53369.40. The legislative body may, by majority vote, initiate proceedings to issue bonds pursuant to this chapter by adopting a resolution stating its intent to issue the bonds.

53369.41. The resolution adopted pursuant to Section 53369.40 shall contain all of the following information:

1 (a) A description of the facilities to be financed with the
2 proceeds of the proposed bond issue.

3 (b) The estimated cost of the facilities, the estimated cost of
4 preparing and issuing the bonds, and the principal amount of the
5 proposed bond issuance.

6 (c) The maximum interest rate and discount on the proposed
7 bond issuance.

8 (d) The date of the election on the proposed bond issuance and
9 the manner of holding the election.

10 (e) A determination of the amount of tax revenue available or
11 estimated to be available, for the payment of the principal of, and
12 interest on, the bonds.

13 (f) A finding that the amount necessary to pay the principal of,
14 and interest on, the proposed bond issuance will be less than, or
15 equal to, the amount determined pursuant to subdivision (e).

16 53369.42. The clerk of the legislative body shall publish the
17 resolution adopted pursuant to Section 53369.40 once a day for at
18 least seven successive days in a newspaper published in the city
19 or county at least six days a week, or at least once a week for two
20 successive weeks in a newspaper published in the city or county
21 less than six days a week.

22 If there are no newspapers meeting these criteria, the resolution
23 shall be posted in three public places within the territory of the
24 district for two succeeding weeks.

25 53369.43. The legislative body shall submit the proposal to
26 issue the bonds to the voters who reside within the district. The
27 election shall be conducted in the same manner as the election to
28 create the district pursuant to Section 53369.20 and the two
29 elections may be consolidated.

30 53369.44. (a) Bonds may be issued only if two-thirds of the
31 voters voting on the proposition vote in favor of authorizing the
32 issuance of the bonds.

33 (b) If the voters authorize the issuance of the bonds as provided
34 by subdivision (a), the legislative body may subsequently proceed
35 with the issuance of the bonds by adopting a resolution which shall
36 provide for all of the following:

37 (1) The issuance of the bonds in one or more series.

38 (2) The principal amount of the bonds, which shall be consistent
39 with the amount specified in subdivision (b) of Section 53369.41.

40 (3) The date the bonds will bear.

1 (4) The date of maturity of the bonds.

2 (5) The denomination of the bonds.

3 (6) The form of the bonds.

4 (7) The manner of execution of the bonds.

5 (8) The medium of payment in which the bonds are payable.

6 (9) The place or manner of payment and any requirements for
7 registration of the bonds.

8 (10) The terms of call or redemption, with or without premium.

9 53369.45. If any proposition submitted to the voters pursuant
10 to this chapter is defeated by the voters, the legislative body shall
11 not submit, or cause to be submitted, a similar proposition to the
12 voters for at least one year after the first election.

13 53369.46. The legislative body may, by majority vote, provide
14 for refunding of bonds issued pursuant to this chapter. However,
15 refunding bonds shall not be issued if the total net interest cost to
16 maturity on the refunding bonds plus the principal amount of the
17 refunding bonds exceeds the total net interest cost to maturity on
18 the bonds to be refunded. The legislative body may not extend the
19 time to maturity of the bonds.

20 53369.47. The legislative body or any person executing the
21 bonds shall not be personally liable on the bonds by reason of their
22 issuance. The bonds and other obligations of a district issued
23 pursuant to this chapter are not a debt of the city, county, or state
24 or of any of its political subdivisions, other than the district, and
25 none of those entities, other than the district, shall be liable on the
26 bonds and the bonds or obligations shall be payable exclusively
27 from funds or properties of the district. The bonds shall contain a
28 statement to this effect on their face. The bonds do not constitute
29 an indebtedness within the meaning of any constitutional or
30 statutory debt limitation.

31 53369.48. (a) The bonds may be sold at discount not to exceed
32 5 percent of par at a negotiated or public sale. At least five days
33 prior to a public sale, notice shall be published, pursuant to Section
34 6061, in a newspaper of general circulation and in a financial
35 newspaper published in the City and County of San Francisco and
36 in the City of Los Angeles. The bonds may be sold at not less than
37 par to the federal government at private sale without any public
38 advertisement.

39 (b) Any negotiated sale of bonds pursuant to this section shall
40 be limited to bond issuances of an infrastructure and revitalization

1 financing district that do not exceed five million dollars
2 (\$5,000,000).

3 53369.49. If any member of the legislative body whose
4 signature appears on bonds ceases to be a member of the legislative
5 body before delivery of the bonds, his or her signature is as
6 effective as if he or she had remained in office. Bonds issued
7 pursuant to this chapter are fully negotiable.

8 SEC. 2. Section 33459 of the Health and Safety Code is
9 amended to read:

10 33459. For purposes of this article, the following terms shall
11 have the following meanings:

12 (a) “Department” means the Department of Toxic Substances
13 Control.

14 (b) “Director” means the Director of Toxic Substances Control.

15 (c) “Hazardous substance” means any hazardous substance as
16 defined in subdivision (h) of Section 25281, and any reference to
17 hazardous substance in the definitions referenced in this section
18 shall be deemed to refer to hazardous substance, as defined in this
19 subdivision.

20 (d) “Local agency” means a single local agency that is one of
21 the following:

22 (1) A local agency authorized pursuant to Section 25283 to
23 implement Chapter 6.7 (commencing with Section 25280) of, and
24 Chapter 6.75 (commencing with Section 25299.10) of, Division
25 20.

26 (2) A local officer who is authorized pursuant to Section 101087
27 to supervise a remedial action.

28 (3) An infrastructure and revitalization financing district *created*
29 *pursuant to Chapter 2.6 (commencing with Section 53369) or*
30 *Chapter 2.10 (commencing with Section 53399) of Part 1 of*
31 *Division 2 of Title 5 of the Government Code.*

32 (e) “Qualified independent contractor” means an independent
33 contractor who is any of the following:

34 (1) An engineering geologist who is certified pursuant to Section
35 7842 of the Business and Professions Code.

36 (2) A geologist who is registered pursuant to Section 7850 of
37 the Business and Professions Code.

38 (3) A civil engineer who is registered pursuant to Section 6762
39 of the Business and Professions Code.

40 (f) “Release” means any release, as defined in Section 25320.

- 1 (g) “Remedy” or “remove” means any action to assess, evaluate,
2 investigate, monitor, remove, correct, clean up, or abate a release
3 of a hazardous substance or to develop plans for those actions.
4 “Remedy” includes any action set forth in Section 25322 and
5 “remove” includes any action set forth in Section 25323.
6 (h) “Responsible party” means any person described in
7 subdivision (a) of Section 25323.5 of this code or subdivision (a)
8 of Section 13304 of the Water Code.

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